

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICROSOFT CORPORATION,
Plaintiff,

v.

A&S ELECTRONICS, INC., ET AL.,
Defendants.

Case No. 15-cv-03570-YGR

**ORDER DENYING MOTION TO DISMISS
THIRD AMENDED COMPLAINT**

Re: Dkt. No. 49

Plaintiff Microsoft Corporation (“Microsoft”) brings this copyright and trademark case against Defendants Alan Lin and A&S Electronics, Inc. (collectively, “A&S”), which resells “used” Microsoft software online without Microsoft’s authorization. Microsoft filed its Third Amended Complaint (“TAC”) against A&S on February 18, 2016. (Dkt. No. 45.) A&S moved to dismiss the TAC on March 9, 2016. (Dkt. No. 49.)

Having carefully considered the papers submitted and the pleadings in this action, and for the reasons stated on the record at the hearing on April 19, 2016, the Court **DENIES** the Motion to Dismiss the TAC.

As discussed on the record, Microsoft has the burden of establishing the licensing agreements alleged in the TAC, and this issue is central to the entire action. The Court has directed the parties to conduct focused discovery on this issue alone, and for the parties to file cross-motions for summary judgment on the issue of existence of the alleged licenses on the following timetable:

A&S shall file its Motion for Summary Judgment on the license/sale issue by: **8/16/16;**

Microsoft shall file its Opposition to A&S’s Motion and Cross-Motion for Summary Judgment by: **August 30, 2016;**

A&S shall file its Reply and Opposition to Microsoft's Cross-Motion by: **September 13, 2016;**


Microsoft shall file its Reply on its motion by **September 27, 2016.**

The hearing on the cross-motions is **SET** for **October 18, 2016**, at 2:00pm. In Courtroom 1, Federal Courthouse, 1301 Clay Street, Oakland, California.

This terminates Docket No. 49.

IT IS SO ORDERED.

Dated: April 28, 2016


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

United States District Court
Northern District of California